

adjustment of status to that of lawful permanent resident of the United States may not be granted until a visa number becomes available for the alien under the worldwide allocation for employment-based immigrants under section 201(d) and section 203(b)(4) of the Act. The alien may request initial or continued employment authorization while the adjustment application is pending by filing Form I-765, Application for Employment Authorization. If the alien needs to travel outside the United States during this period, he or she may file a request for advance parole on Form I-131, Application for Travel Document.

(g) *Filing and decision.* An application for adjustment of status filed by an S nonimmigrant under section 101(a)(15)(S) of the Act shall be filed with the district director having jurisdiction over the alien's place of residence. Upon approval of adjustment of status under this section, the district director shall record the alien's lawful admission for permanent residence as of the date of such approval. The district director shall notify the Commissioner and the Assistant Attorney General, Criminal Division, of the adjustment.

(h) *Removal under section 237 of the Act.* Nothing in this section shall prevent an alien adjusted pursuant to the terms of these provisions from being removed for conviction of a crime of moral turpitude committed within 10 years after being provided lawful permanent residence under this section or for any other ground under section 237 of the Act.

(i) *Denial of application.* In the event the district director decides to deny an application on Form I-485 and an approved Form I-854 to allow an S nonimmigrant to adjust status, the Assistant Attorney General, Criminal Division, and the relevant LEA shall be notified in writing to that effect. The Assistant Attorney General, Criminal Division, shall concur in or object to that decision. Unless the Assistant Attorney General, Criminal Division, objects within 7 days, he or she shall be deemed to have concurred in the decision. In the event of an objection by the Assistant Attorney General, Criminal Division, the matter will be expedi-

tiously referred to the Deputy Attorney General for a final resolution. In no circumstances shall the alien or the relevant LEA have a right of appeal from any decision to deny. A denial of an adjustment application under this paragraph may not be renewed in subsequent removal proceedings.

[60 FR 44269, Aug. 25, 1995; 60 FR 52248, Oct. 5, 1995, as amended at 62 FR 10384, Mar. 6, 1997]

§245.12 Adjustment of status of certain Polish and Hungarian parolees under the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

(a) *Application.* Each person applying for adjustment of status under section 646(b) of Pub. L. 104-208 must file a completed Form I-485, Application to Register Permanent Residence or Adjustment Status, accompanied by the appropriate filing fee, with the district director having jurisdiction over the applicant's place of residence. Each application shall be accompanied by specific evidence that the applicant meets the requirements for eligibility under section 646 of Pub. L. 104-208; a Form I-643, Health and Human Services Statistical Data; the results of the medical examination made in accordance with §245.5; Form G-325A, Biographic Information, and, unless the applicant is under the age of 14 years or over the age of 79 years, a properly executed Form FD-258, Fingerprint Card.

(b) *Effect of departure.* Departure from the United States by an applicant for benefits under this provision shall be deemed an abandonment of the application as provided in §245.2(a)(4)(ii).

[62 FR 28315, May 23, 1997]

§245.13 Adjustment of status of certain nationals of Nicaragua and Cuba under Public Law 105-100.

(a) *Aliens eligible to apply for adjustment.* An alien is eligible to apply for adjustment of status under the provisions of section 202 of Pub. L. 105-100, if the alien:

(1) Is a national of Nicaragua or Cuba;

(2) Except as provided in paragraph (c) of this section, has been physically present in the United States for a continuous period beginning not later than

December 1, 1995, and ending not earlier than the date the application for adjustment is granted, excluding:

(i) Any periods of absence from the United States not exceeding 180 days in the aggregate; and

(ii) Any periods of absence for which the applicant received an Advance Authorization for Parole (Form I-512) prior to his or her departure from the United States, provided the applicant returned to the United States in accordance with the conditions of such Advance Authorization for Parole;

(3) Is not inadmissible to the United States for permanent residence under any provisions of section 212(a) of the Act, with the exception of paragraphs (4), (5), (6)(A), (7)(A) and (9)(B). If available, an applicant may apply for an individual waiver as provided in paragraph (c) of this section;

(4) Is physically present in the United States at the time the application is filed; and

(5) Properly files an application for adjustment of status in accordance with this section.

(b) *Qualified family members*—(1) *Existence of relationship at time of adjustment.* The spouse, child, or unmarried son or daughter of an alien eligible for adjustment of status under the provisions of Pub. L. 105-100 is eligible to apply for benefits as a dependent provided the qualifying relationship existed when the principal beneficiary was granted adjustment of status and the dependent meets all applicable requirements of sections 202(a) and (d) of Pub. L. 105-100.

(2) *Spouse and minor children.* If physically present in the United States, the spouse or minor child of an alien who is eligible for permanent residence under the provisions of Pub. L. 105-100 may also apply for and receive adjustment of status under this section, provided such spouse or child meets the criteria established in paragraph (a) of this section, except for the requirement of continuous physical presence in the United States since December 1, 1995. Such application may be filed concurrently with or subsequent to the filing of the principal's application but may not be approved prior to approval of the principal's application.

(3) *Unmarried adult sons and daughters.* An unmarried son or daughter of an alien who is eligible for permanent residence under the provisions of Pub. L. 105-100 may apply for and receive adjustment under this section, provided such son or daughter meets the criteria established in paragraph (a) of this section.

(c) *Applicability of inadmissibility grounds contained in section 212(a).* An applicant for the benefits of the adjustment of status provisions of section 202 of Pub. L. 105-100 need not establish inadmissibility under paragraphs (4), (5), (6)(A), (7)(A), and (9)(B) of section 212(a) of the Act in order to be able to adjust his or her status to that of permanent resident. An applicant under section 202 of Pub. L. 105-100 may also apply for one or more of the immigrant waivers of inadmissibility under section 212 of the Act, if applicable, in accordance with §212.7 of this chapter.

(d) *Aliens in exclusion, deportation, or removal proceedings, and aliens subject to a final order of exclusion, deportation, or removal*—(1) *Proceedings pending before an Immigration Court.* Except as provided in paragraph (d)(3) of this section, while an alien is in exclusion, deportation, or removal proceedings pending before an immigration judge, or has a pending motion to reopen or motion to reconsider filed with an immigration judge on or before May 21, 1998, sole jurisdiction over an application for adjustment of status under section 202 of Public Law 105-100 shall lie with the immigration judge. If an alien who has a pending motion to reopen or motion to reconsider filed with an immigration judge on or before May 21, 1998 files an application for adjustment of status under section 202 of Pub. L. 105-100, the immigration judge shall reopen the alien's proceedings for consideration of the adjustment application, unless the alien is clearly ineligible for adjustment of status under section 202 of Pub. L. 105-100. All applications for adjustment of status under section 202 of Pub. L. 105-100 filed with an Immigration Court shall be subject to the requirements of §§3.11 and 3.31 of this chapter.

(2) *Proceedings pending before the Board of Immigration Appeals.* Except as

provided in paragraph (d)(3) of this section, in the case of an alien who either has a pending appeal with the Board or has a pending motion to reopen or motion to reconsider filed with the Board on or before May 21, 1998, the Board shall remand, or reopen and remand, the proceedings to the Immigration Court for the sole purpose of adjudicating an application for adjustment of status under section 202 of Pub. L. 105–100, unless the alien is clearly ineligible for adjustment of status under section 202 of Pub. L. 105–100. If the immigration judge denies, or the alien fails to file, the application for adjustment of status under section 202 of Pub. L. 105–100, the immigration judge shall certify the decision to the Board for consideration in conjunction with the applicant's previously pending appeal or motion.

(3) *Administrative closure of pending exclusion, deportation, or removal proceedings.* (i) In the case of an alien who is in exclusion, deportation, or removal proceedings, or has a pending motion to reopen or a motion to reconsider such proceedings filed on or before May 21, 1998, and who appears to be eligible to file an application for adjustment of status under section 202 of Pub. L. 105–100, the Immigration Court having jurisdiction over such proceedings or motion, or if the matter is before the Board on appeal or by motion, the Board, shall, upon request of the alien and with the concurrence of the Service, administratively close the proceedings, or continue indefinitely the motion, to allow the alien to file such application with the Service as prescribed in paragraph (g) of this section.

(ii) In any case not administratively closed in accordance with paragraph (d)(3)(i) of this section, the immigration judge having jurisdiction over the exclusion, deportation, or removal proceedings shall have jurisdiction to accept and adjudicate any application for adjustment of status under section 202 of Pub. L. 105–100 during the course of such proceedings.

(4) *Aliens with final orders of exclusion, deportation, or removal.* An alien who is subject to a final order of exclusion, deportation, or removal, and who has not been denied adjustment of status under section 202 of Public Law 105–100

by the immigration judge or the Board of Immigration Appeals, may apply to the Service for adjustment of status under section 202 of Pub. L. 105–100.

(5) *Stay of final order of exclusion, deportation, or removal—(i) With the Service.* The filing of an application for adjustment under section 202 of Public Law 105–100 with the Service shall not stay the execution of such final order unless the applicant has filed, and the Service has approved an Application for Stay of Removal (Form I-246) in accordance with section 241(c)(2) of the Act and §241.6 of this chapter.

(ii) *With EOIR.* When the Service refers a decision to an immigration judge on a Notice of Certification (Form I-290C) in accordance with paragraph (m)(3) of this section, the referral shall not stay the execution of the final order. Execution of such final order shall proceed unless a stay of execution is specifically granted by the immigration judge, the Board, or an authorized Service officer.

(6) *Effect on applications for adjustment under other provisions of the law.* Nothing in this section shall be deemed to allow any alien who is in either exclusion proceedings that commenced prior to April 1, 1997, or removal proceedings as an inadmissible arriving alien that commenced on or after April 1, 1997, and who has not been paroled into the United States, to apply for adjustment of status under any provision of law other than section 202 of Pub. L. 105–100.

(e) *Application and supporting documents.* Each applicant for adjustment of status must file an Application to Register Permanent Residence or Adjust Status (Form I-485). An applicant should complete Part 2 of Form I-485 by checking box “h—other” and writing “NACARA—Principal” or “NACARA—Dependent” next to that block. Each application must be accompanied by:

(1) The fee prescribed in §103.7(b)(1) of this chapter;

(2) Evidence of commencement of physical presence in the United States not later than December 1, 1997. Such evidence may consist of either:

(i) Documentation evidencing one or more of the activities specified in section 202(b)(2)(A) of Pub. L. 105–100, or

(ii) Other documentation issued by a Federal, State, or local authority provided such other documentation bears the seal of such authority, was dated at the time of issuance, and bears a date of issuance not later than December 1, 1995. Examples of such other documentation include, but are not limited to:

- (A) A State driver's license;
- (B) A State identification card issued in lieu of a driver's license to a non-driver;
- (C) A county or municipal hospital record;
- (D) A public college or public school transcript; and
- (E) Income tax records;

(3) Evidence of continuity of physical presence in the United States issued by any governmental or non-governmental authority, provided such evidence bears the name of the applicant, was dated at the time it was issued, and bears the signature of the authorized representative of the issuing authority. There should be no chronological gaps in such documentation exceeding 90 days in length, excluding periods when the applicant states that he or she was not physically present in the United States. Such documentation need not bear the seal of the issuing authority and may include, but is not limited to:

- (i) School records;
- (ii) Rental receipts;
- (iii) Utility bill receipts;
- (iv) Any other dated receipts;
- (v) Personal checks written by the applicant bearing a dated bank cancellation stamp;
- (vi) Employment records, including pay checks;
- (vii) Credit card statements showing the dates of purchase, payment, or other transaction; and
- (viii) For applicants who have had ongoing correspondence or other interaction with the Service, a list of the types and dates of such correspondence or other contact that the applicant knows to be contained or reflected in Service records;

(4) A copy of the applicant's birth certificate;

(5) A complete Biographic Information Sheet (Form G-325A), if the applicant is between 14 and 79 years of age;

(6) A report of medical examination, as specified in §245.5 of this chapter;

(7) Two photographs, as described in the instructions to Form I-485;

(8) If the applicant is 14 years of age or older, a police clearance from each municipality where the alien has resided for six months or longer since arriving in the United States;

(9) If the applicant is applying as the spouse of another Pub. L. 105-100 beneficiary, a copy of their certificate of marriage and copies of documents showing the legal termination of all other marriages by the applicant or the other beneficiary;

(10) If the applicant is applying as the child, unmarried son, or unmarried daughter of another (principal) beneficiary under section 202 of Pub. L. 105-100 who is not the applicant's biological mother, copies of evidence (such as the applicant's parent's marriage certificate and documents showing the legal termination of all other marriages, an adoption decree, or other relevant evidence) to demonstrate the relationship between the applicant and the other beneficiary;

(11) A copy of the Arrival-Departure Record (Form-I-94) issued at the time of the applicant's arrival in the United States, if the alien was inspected and admitted or paroled; and

(12) If the applicant has departed from and returned to the United States since December 1, 1995, an attachment on a plain piece of paper showing:

(i) The date of the applicant's last arrival in the United States before or on December 1, 1995;

(ii) The date of each departure (if any) from the United States since that arrival;

(iii) The reason for each departure; and

(iv) The date, manner, and place of each return to the United States.

(f) *Secondary evidence.* If the primary evidence required in paragraph (e)(4), (e)(9) or (e)(10) of this section is unavailable, church or school records, or other secondary evidence pertinent to the facts in issue, may be submitted. If such documents are unavailable, affidavits may be submitted. The applicant may submit as many types of secondary evidence as necessary to establish the birth, marriage, or other

event. Documentary evidence establishing that primary evidence is unavailable must accompany secondary evidence of birth or marriage in the home country. In adjudicating the application for adjustment of status under section 202 of Public Law 105–100, the Service or immigration judge shall determine the weight to be given such secondary evidence. Secondary evidence may not be submitted in lieu of the documentation specified in paragraphs (e)(2) and (e)(3) of this section. However, subject to verification by the Service, if the documentation specified in paragraphs (e)(2) and (e)(3) is already contained in the Service's file relating to the applicant, the applicant may submit an affidavit to that effect in lieu of the actual documentation.

(g) *Filing.* The application period begins on June 22, 1998. To benefit from the provisions of section 202 of Public Law 105–100, an alien must properly file an application for adjustment of status before April 1, 2000. Except as provided in paragraph (d) of this section, all applications for the benefits of section 202 of Pub. L. 105–100 must be submitted by mail to: USINS Texas Service Center, P.O. Box 851804, Mesquite, TX 75185–1804. After proper filing of the application, the Service will notify the applicant to appear for fingerprinting as prescribed in § 103.2(e) of this chapter.

(h) *Jurisdiction.* Except as provided in paragraphs (d) and (i) of this section, the director of the Texas Service Center shall have jurisdiction over all applications for adjustment of status under section 202 of Public Law 105–100.

(i) *Interview.* (1) Except as provided in paragraphs (d), (i)(2), and (i)(3) of this section, all applicants for adjustment of status under section 202 of Pub. L. 105–100 must be personally interviewed by an immigration officer at a local office of the Service. In any case in which the director of the Texas Service Center determines that an interview of the applicant is necessary, that director shall forward the case to the appropriate local Service office for interview and adjudication.

(2) In the case of an applicant who has submitted evidence of commencement of physical presence in the United States consisting of one or more of the documents specified in sec-

tion 202(b)(2)(A)(i) through (v) or section 202(b)(2)(A)(vii) of Pub. L. 105–100 and upon examination of the application, including all other evidence submitted in support of the application, all relevant Service records and all other relevant law enforcement indices, if the director of the Texas Service Center determines that the alien is clearly eligible for adjustment of status under Pub. L. 105–100 and that an interview of the applicant is not necessary, the director may approve the application.

(3) Upon examination of the application, all supporting documentation, all relevant Service records, and all other relevant law enforcement indices, if the director of the Texas Service Center determines that the alien is clearly ineligible for adjustment of status under Pub. L. 105–100 and that an interview of the applicant is not necessary, the director may deny the application.

(j) *Authorization to be employed in the United States while the application is pending—(1) Application.* An applicant for adjustment of status under section 202 of Pub. L. 105–100 who wishes to obtain initial or continued employment authorization during the pendency of the adjustment application must file an Application for Employment authorization (Form I-765), with fee as set forth in § 103.7(b)(1) of this chapter. The applicant may either submit Form I-765 concurrently with Form I-485 or wait for at least 90 days after submission of Form I-485.

(2) *Adjudication and issuance.* In general, employment authorization may not be issued to an applicant for adjustment of status under section 202 of Pub. L. 105–100 until the adjustment application has been pending for 180 days. However, if Service records contain one or more of the documents specified in section 202(b)(2)(A)(i) through (v) and (vii) of Pub. L. 105–100, evidence of the applicant's Nicaraguan or Cuban nationality, and no indication that the applicant is clearly ineligible for adjustment of status under section 202 of Pub. L. 105–100, the application for employment authorization may be approved, and the resulting document issued immediately upon verification that the Service record contains such

information. If the Service fails to adjudicate the application for employment authorization upon expiration of the 180-day waiting period or within 90 days of the filing of application for employment authorization, whichever comes later, the alien shall be eligible for interim employment authorization in accordance with §274a.13(d) of this chapter. Nothing in this section shall preclude an applicant for adjustment of status under Pub. L. 105-100 from being granted an initial employment authorization or an extension of employment authorization under any other provision of law or regulation for which the alien may be eligible.

(k) *Parole authorization for purposes of travel*—(1) *Travel from and return to the United States while the application for adjustment of status is pending.* If an applicant for benefits under section 202 of Pub. L. 105-100 desires to travel outside, and return to, the United States while the application for adjustment of status is pending, he or she must file a request for advance parole authorization on an Application for Travel Document (Form I-131), with fee as set forth in §103.7(b)(1) of this chapter and in accordance with the instructions on the form. If the alien is either in deportation or removal proceedings, or subject to a final order of deportation or removal, the Form I-131 must be submitted to the Assistant Commissioner for International Affairs; otherwise the Form I-131 must be submitted to the director of the Texas Service Center, who shall have jurisdiction over such applications. If any applicant departs the United States without first obtaining an advance parole, his or her application for adjustment of status under section 202 of Pub. L. 105-100 is deemed to be abandoned as of the moment of his or her departure.

(2) *Parole authorization for the purpose of filing an application for adjustment of status under section 202 of Pub. L. 105-100.* An otherwise eligible applicant who is outside the United States and wishes to come to the United States in order to apply for benefits under section 202 of Pub. L. 105-100 may request parole authorization for such purpose by filing an Application for Travel Document (Form I-131) with the Texas Service Center, at P.O. Box 851804, Mes-

quite, TX 75185-1804. Such application must be supported by a photocopy of the Form I-485 that the alien will file once he or she has been paroled into the United States. The applicant must include photocopies of all the supporting documentation listed in paragraph (e) of this section, except the filing fee, the medical report, the fingerprint card, and the local police clearances. If the director of the Texas Service Center is satisfied that the alien will be eligible for adjustment of status once the alien has been paroled into the United States and files the application, he or she may issue an Authorization for Parole of an Alien into the United States (Form I-512) to allow the alien to travel to, and be paroled into, the United States for a period of 60 days. The applicant shall have 60 days from the date of parole to file the application for adjustment of status. If the alien files the application for adjustment of status within that 60-day period, the Service may re-parole the alien for such time as is necessary for adjudication of the application. Failure to file such application for adjustment of status within 60 days shall result in the alien being returned to the custody of the Service and being examined as an arriving alien applying for admission. Such examination will be conducted in accordance with the provisions of section 235(b)(1) of the Act if the alien is inadmissible under section 212(a)(6)(C) or 212(a)(7) of the Act, or section 240 of the Act if the alien is inadmissible under any other grounds.

(3) *Effect of departure on an outstanding warrant of exclusion, deportation, or removal.* If an alien who is the subject of an outstanding final order of exclusion, deportation, or removal departs from the United States, with or without an advance parole authorization, such final order shall be executed by the alien's departure. The execution of such final order shall not preclude the applicant from filing an Application for Permission to Reapply for Admission Into the United States After Deportation or Removal (Form I-212) in accordance with §212.2 of this chapter.

(l) *Approval.* If the director approves the application for adjustment of status under the provisions of section 202 of Pub. L. 105-100, the director shall

record the alien's lawful admission for permanent resident as of the date of such approval and notify the applicant accordingly. If the alien had previously been issued a final order of exclusion, deportation, or removal, such order shall be deemed canceled as of the date of the director's approval of the application for adjustment of status. If the alien had been in exclusion, deportation, or removal proceedings that were administratively closed, such proceedings shall be deemed terminated as of the date of approval of the application for adjustment of status by the director. If an immigration judge grants or if the Board, upon appeal, grants an application for adjustment under the provisions of section 202 of Pub. L. 105-100, the alien's lawful admission for permanent residence shall be as of the date of such grant.

(m) *Denial and review of decision.* If the director denies the application for adjustment of status under the provisions of section 202 of Pub. L. 105-100, the director shall notify the applicant of the decision. The director shall also:

(1) In the case of an alien who is not maintaining valid nonimmigrant status and who had not previously been placed in exclusion, deportation, or removal proceedings, initiate removal proceedings in accordance with §239.1 of this chapter during which the alien may renew his or her application for adjustment of status under section 202 of Pub. L. 105-100; or

(2) In the case of an alien whose previously initiated exclusion, deportation, or removal proceeding had been administratively closed or continued indefinitely under paragraph (d)(3) of this section, advise the Immigration Court that had administratively closed the proceeding, or the Board, as appropriate, of the denial of the application. The Immigration Court or the Board will then recalendar or reinstate the prior exclusion, deportation, or removal proceeding, during which proceeding the alien may renew his or her application for adjustment under section 202 of Pub. L. 105-100; or

(3) In the case of an alien who is the subject of an outstanding final order of exclusion, deportation, or removal, refer the decision to deny the application by filing a Notice of Certification

(Form I-290C) with the Immigration Court that issued the final order for consideration in accordance with paragraph (n) of this section.

(n) *Action of immigration judge upon referral of decision by a Notice of Certification (Form I-290C)*— (1) *General.* Upon the referral by a Notice of Certification (Form I-290C) of a decision to deny the application, in accordance with paragraph (m)(3) of this section, and under the authority contained in §3.10 of this chapter, the immigration judge shall conduct a hearing to determine whether the alien is eligible for adjustment of status under section 202 of Public Law 105-100. Such hearing shall be conducted under the same rules of procedure as proceedings conducted under part 240 of this chapter, except the scope of review shall be limited to a determination on the alien's eligibility for adjustment of status under section 202 of Public Law 105-100. During such proceedings all parties are prohibited from raising or considering any other issues, including but not limited to issues of admissibility, deportability, removability, and eligibility for any form of relief other than adjustment of status under section 202 of Public Law 105-100. Should the alien fail to appear for such hearing, the immigration judge shall deny the application for adjustment under section 202 of Public Law 105-100.

(2) *Appeal of immigration judge decision.* Once the immigration judge issues his or her decision on the application, either the alien or the Service may appeal the decision to the Board. Such appeal must be filed pursuant to the requirements for appeals to the Board from an immigration judge decision set forth in §§3.3 and 3.8 of this chapter.

(3) *Rescission of the decision of an immigration judge.* The decision of an immigration judge under paragraph (n)(1) of this section denying an application for adjustment under section 202 of Public Law 105-100 for failure to appear may be rescinded only:

(i) Upon a motion to reopen filed within 180 days after the date of the denial if the alien demonstrates that the failure to appear was because of exceptional circumstances as defined in section 240(e)(1) of the Act; or

(ii) Upon a motion to reopen filed at any time if the alien demonstrates that the alien did not receive notice of the hearing in person (or, if personal service was not practicable, through service by mail to the alien or to the alien's counsel of record, if any) or the alien demonstrates that the alien was in Federal or State custody and the failure to appear was through no fault of the alien.

(o) *Transition period provisions for tolling the physical presence in the United States provision for certain individuals—*

(1) *Departure without advance authorization for parole.* In the case of an otherwise eligible applicant who departed the United States on or before December 31, 1997, the physical presence in the United States provision of section 202(b)(1) of Pub. L. 105-100 is tolled as of November 19, 1997, and until July 20, 1998.

(2) *Departure with advance authorization for parole.* In the case of an alien who departed the United States after having been issued an Authorization for parole of an Alien into the United States (Form I-512), and who returns to the United States in accordance with the conditions of that document, the physical presence in the United States requirement of section 202(b)(1) of Pub. L. 105-100 is tolled while the alien is outside the United States pursuant to the issuance of the Form I-512.

(3) *Request for parole authorization from outside the United States.* In the case of an alien who is outside the United States and submits an application for parole authorization in accordance with paragraph (k)(2) of this section, and such application for parole authorization is granted by the Service, the physical presence in the United States provisions of section 202(b)(1) of Pub. L. 105-100 is tolled from the date the application is received at the Texas Service Center until the alien is paroled into the United States pursuant to the issuance of the Form I-512.

(Approved by the Office of Management and Budget under Control Number 1115-0221.)

[63 FR 27829, May 21, 1998]

§245.14. Adjustment of status of certain health care workers.

An alien applying for adjustment of status to perform labor in a health care

occupation as described in 8 CFR 212.15(c) must present evidence at the time he or she applies for adjustment of status, and, if applicable, at the time of the interview on the application, that he or she has a valid certificate issued by the Commission on Graduates of Foreign Nursing Schools or the National Board of Certification in Occupational Therapy.

[63 FR 55012, Oct. 14, 1998]

PART 245a—ADJUSTMENT OF STATUS TO THAT OF PERSONS ADMITTED FOR LAWFUL TEMPORARY OR PERMANENT RESIDENT STATUS UNDER SECTION 245A OF THE IMMIGRATION AND NATIONALITY ACT

Sec.

245a.1 Definitions.

245a.2 Application for temporary residence.

245a.3 Application for adjustment from temporary to permanent resident status.

245a.4 Adjustment to lawful resident status of certain nationals of countries for which extended voluntary departure has been made available.

245a.5 Temporary disqualification of certain newly legalized aliens from receiving benefits from programs of financial assistance furnished under federal law.

AUTHORITY: 8 U.S.C. 1101, 1103, 1255a and 1255a note.

§245a.1 Definitions.

As used in this chapter:

(a) *Act* means the Immigration and Nationality Act, as amended by The Immigration Reform and Control Act of 1986.

(b) *Service* means the Immigration and Naturalization Service (INS).

(c)(1) *Resided continuously* as used in section 245A(a)(2) of the Act, means that the alien shall be regarded as having resided continuously in the United States if, at the time of filing of the application for temporary resident status:

An alien who after appearing for a scheduled interview to obtain an immigrant visa at a Consulate or Embassy in Canada or Mexico but who subsequently is not issued an immigrant visa and who is paroled back into the United States, pursuant to the state-side criteria program, shall be regarded